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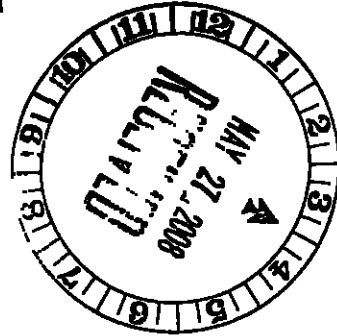
RICHARD A. ALLEN

May 27, 2008

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**BY HAND DELIVERY**

Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E. St., S.W.  
Washington, D.C. 20024

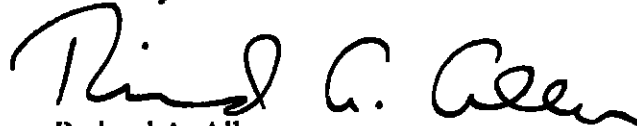


**Re: STB Finance Docket No. 35147, Norfolk Southern Railway Company,  
Pan Am Railways, Inc. *et al.* – Joint Control and Operating/Pooling  
Agreements–Pan Am Southern LLC**

Dear Secretary Quinlan

I enclose for filing an original and 10 copies of a Petition for a Protective Order filed by Norfolk Southern Railway Company, Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company in connection with an application and related notices of exemption that they intend to file shortly with the Board under the above-stated docket number, which I have reserved with your office, and caption

Sincerely,

  
Richard A. Allen

Enclosure

cc Robert B. Culliford, Esq.  
John V. Edwards, Esq.

ENTERED  
Office of Proceedings

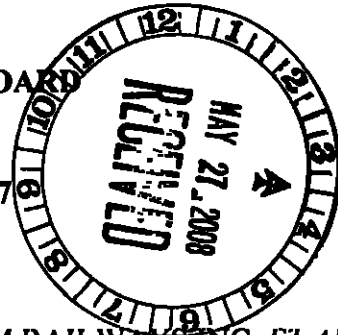
MAY 27 2008

Public Access

222450

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

\_\_\_\_\_  
**FINANCE DOCKET NO. 35147**



\_\_\_\_\_  
**NORFOLK SOUTHERN RAILWAY COMPANY, PAN AM RAILWAYS INC, ET AL  
—JOINT CONTROL AND OPERATING/ POOLING AGREEMENTS—  
PAN AM SOUTHERN LLC**

\_\_\_\_\_  
**PETITION FOR PROTECTIVE ORDER**

**ENTERED**  
Office of Proceedings  
**MAY 27 2008**  
Part of  
Public Record

**Robert B Culliford**  
Senior Vice President and General Counsel  
Pan Am Railways, Inc  
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Portsmouth, NH 03801  
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*Attorney for Pan Am Railways Inc , Boston and  
Maine Corporation and Springfield Terminal  
Railway Company*

*Attorneys for Norfolk Southern  
Railway Company*

May 27, 2008

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**FINANCE DOCKET NO. 35147**

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NORFOLK SOUTHERN RAILWAY COMPANY, PAN AM RAILWAYS INC, *ET AL*  
—JOINT CONTROL AND OPERATING/ POOLING AGREEMENTS—  
PAN AM SOUTHERN LLC

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**PETITION FOR PROTECTIVE ORDER**

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Norfolk Southern Railway Company ("Norfolk Southern"), Pan Am Railways, Inc ("Pan Am"), Boston and Maine Corporation ("B&M") and Springfield Terminal Railway Company ("Springfield Terminal") (collectively "Applicants") hereby petition the Surface Transportation Board ("STB" or "Board") to enter a protective order in the above-referenced proceeding, in the form set forth in Appendix A hereto. The order is required to permit Applicants to submit certain documents to the Board for use by counsel to interested parties, solely for use in this proceeding, that contain commercially highly sensitive terms.

Applicants plan to file an application ("Application") pursuant to 49 U.S.C. §§ 11322 and 11323 together with related notices of exemption seeking Board approval of, or exemption from formal approval requirements to authorize, (1) acquisition by Norfolk Southern and B&M of joint control and ownership of Pan Am Southern ("PAS"), an entity to be formed, and its railroad lines; (2) operating and pooling agreements by which Springfield Terminal will operate the lines of PAS and establish rates for PAS; (3) the acquisition and operation by PAS of certain railroad lines; and (4) the acquisition by Norfolk Southern and Springfield Terminal of trackage rights over certain PAS lines (collectively, the

“Transaction”) The elements of the Transaction are based on written agreements, copies of which will be contained in the Application

Some terms in those agreements contain highly confidential commercial and proprietary information Applicants wish to submit such information to the Board while protecting the confidentiality of the information In addition, during the course of the proceeding, Applicants or other interested parties may wish to engage in discovery or file evidence that includes or is based on proprietary and commercially sensitive information

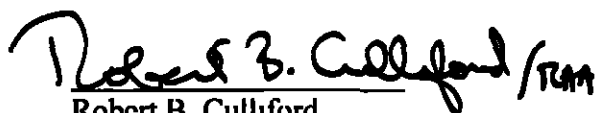
Issuance of the proposed protective order at this time, as the Board has routinely done in prior control transactions, will facilitate the exchange of information and will establish appropriate procedures for the submission of evidence containing proprietary and commercially sensitive information while at the same time protecting the confidentiality of such sensitive information,

The proposed protective order is modeled substantially on several others that the Board has recently entered Accordingly, Applicants request that a protective order be entered in the form provided in Appendix A hereto, including the forms of confidentiality undertakings that accompany it

## CONCLUSION

For the foregoing reasons, Applicants request the Board to enter a Protective Order in substantially the form attached hereto

Respectfully submitted,



Robert B Culliford  
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14 Aviation Avenue  
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(603) 766-2002



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*Attorney for Pan Am Railways Inc , Boston and  
Maine Corporation and Springfield Terminal  
Railway Company*

*Attorneys for Norfolk Southern  
Railway Company*

May 27, 2008

Enclosures

## **APPENDIX A**

### **PROTECTIVE ORDER**

#### **1 For purposes of this Protective Order**

(a) "Confidential Documents" means documents and other tangible materials containing or reflecting Confidential Information

(b) "Confidential Information" means traffic data (including but not limited to waybills, abstracts, study movement sheets, and any documents or computer tapes containing data derived from waybills, abstracts, study movement sheets, or other data bases, and cost work papers), the identification of shippers and receivers in conjunction with shipper-specific or other traffic data, the confidential terms of contracts with shippers, or carriers, confidential financial and cost data, and other confidential or proprietary business or personal information

(c) "Designated Material" means any documents designated or stamped as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" in accordance with paragraph 2 or 3 of this Protective Order, and any Confidential Information contained in such materials

(d) "Proceedings" means those before the Surface Transportation Board ("Board") concerning the Notice of Exemption filed in Finance Docket No 35147 and any related proceedings before the Board, and any judicial review proceedings arising from Finance Docket No 35147 or from any related proceedings before the Board

**2 If any party to these Proceedings determines that any part of a document it submits, discovery request it propounds, or a discovery response it produces, or a transcript of a deposition or hearing in which it participates, or of a pleading or other paper to be submitted, filed or served in these Proceedings contains Confidential Information or consists of Confidential Documents, then that party may designate and stamp such Confidential Information and Confidential Documents as "CONFIDENTIAL " Any information or documents designated or stamped as "CONFIDENTIAL" shall be handled as provided for hereinafter**

**3 If any party to these Proceedings determines that any part of a document it submits, discovery request it propounds, or a discovery response it produces, or a transcript of a deposition or hearing in which it participates, or of a pleading or other paper to be submitted, filed or served in these Proceedings contains shipper-specific rate or cost data, trackage rights**

compensation levels or other competitively sensitive or proprietary information, then that party may designate and stamp such Confidential Information as "HIGHLY CONFIDENTIAL." Any information or documents so designated or stamped shall be handled as provided hereinafter

4 Information and documents designated or stamped as "CONFIDENTIAL" may not be disclosed in any way, directly or indirectly, or to any person or entity except to an employee, counsel, consultant, or agent of a party to these Proceedings, or an employee of such counsel, consultant, or agent, who, before receiving access to such information or documents, has been given and has read a copy of this Protective Order and has agreed to be bound by its terms by signing a confidentiality undertaking substantially in the form set forth at Exhibit A to this Order

5 Information and documents designated or stamped as "HIGHLY CONFIDENTIAL" may not be disclosed in any way, directly or indirectly, to any employee of a party to these Proceedings, or to any other person or entity except to an outside counsel or outside consultant to a party to these Proceedings, or to an employee of such outside counsel or outside consultant, who, before receiving access to such information or documents, has been given and has read a copy of this Protective Order and has agreed to be bound by its terms by signing a confidentiality undertaking substantially in the form set forth at Exhibit B to this order

6 Any party to these Proceedings may challenge the designation by any other party of information or documents as "CONFIDENTIAL" or as "HIGHLY CONFIDENTIAL" by filing a motion with the Board or with an administrative law judge or other officer to whom authority has been lawfully delegated by the Board to adjudicate such challenges

7 Designated material may not be used for any purposes, including without limitation any business, commercial or competitive purposes, other than the preparation and presentation of evidence and argument in Finance Docket No. 35147, any related proceedings before the Surface Transportation Board, and/or any judicial review proceedings in connection with Finance Docket No. 35147 and/or with any related proceedings

8 Any party who receives Designated Material in discovery shall destroy such materials and any notes or documents reflecting such materials (other than file copies of pleadings or other documents filed with the Board and retained by outside counsel for a party to these Proceedings) at the earlier of (1) such time as the party receiving the materials withdraws from these Proceedings, or (2) the completion of these Proceedings, including any petitions for reconsideration, appeals, or remands

9 No party may include Designated Material in any pleading, brief, discovery request or response, or other document submitted to the Board, unless the pleading or other document is submitted under seal, in a package clearly marked on the outside as "Confidential Materials Subject to Protective Order." See 49 CFR 1104.14. All pleadings and other documents so submitted shall be kept confidential by the Board and shall not be placed in the public docket

in these Proceedings except by order of the Board or of an administrative law judge or other officer in the exercise of authority lawfully delegated by the Board

10 No party may include Designated Material in any pleading, brief, discovery request or response, or other document submitted to any forum other than this Board in these Proceedings unless (1) the pleading or other document is submitted under seal in accordance with a protective order that requires the pleading or other document to be kept confidential by that tribunal and not be placed in the public docket in the proceeding, or (2) the pleading or other document is submitted in a sealed package clearly marked, "Confidential Materials Subject to Request for Protective Order," and is accompanied by a motion to that tribunal requesting issuance of a protective order that would require the pleading or other document be kept confidential and not be placed in the public docket in the proceeding, and requesting that if the motion for protective order is not issued by that tribunal, the pleading or other document be returned to the filing party

11 No party may present or otherwise use any Designated Material at a Board hearing in these Proceedings, unless that party has previously submitted, under seal, all proposed exhibits and other documents containing or reflecting such Designated Material to the Board, to an administrative law judge or to another officer to whom relevant authority has been lawfully delegated by the Board, and has accompanied such submission with a written request that the Board, administrative law judge or other officer (a) restrict attendance at the hearing during any discussion of such Designated Material, and (b) restrict access to any portion of the record or briefs reflecting discussion of such Designated Material in accordance with this Protective Order

12 If any party intends to use any Designated Material in the course of any deposition in these Proceedings, that party shall so advise counsel for the party producing the Designated Material, counsel for the deponent, and all other counsel attending the deposition. Attendance at any portion of the deposition at which any Designated material is used or discussed shall be restricted to persons who may review that material under the terms of this Protective Order. All portions of deposition transcripts or exhibits that consist of, refer to, or otherwise disclose Designated Material shall be filed under seal and be otherwise handled as provided in paragraph 9 of this Protective Order

13 To the extent that materials reflecting Confidential Information are produced by a party in these Proceedings, and are held and/or used by the receiving person in compliance with paragraphs 1.2 or 3 above, such production, disclosure, holding, and use of the materials and of the data that the materials contain are deemed essential for the disposition of this and any related proceedings and will not be deemed a violation of 49 U.S.C. 11904 or of any other relevant provision of the ICC Termination Act of 1995

14 All parties must comply with all of the provisions of this Protective Order unless the Board or an administrative law judge or other officer exercising authority lawfully delegated by the Board determines that good cause has been shown warranting suspension of any of the provisions herein



**15 Nothing in this Protective Order restricts the right of any party to disclose voluntarily any Confidential Information originated by that party, or to disclose voluntarily any Confidential Documents originated by that party, if such Confidential Information or Confidential Documents do not contain or reflect any Confidential Information originated by any other party**

Exhibit A

UNDERTAKING – CONFIDENTIAL MATERIAL

I, \_\_\_\_\_ have read the Protective Order served \_\_\_\_\_, 2008, governing the production and use of Confidential Information and Confidential Documents in STB Finance Docket No 35147, understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any Confidential Information or Confidential Documents obtained pursuant to that Protective Order, or to use or to permit the use of any methodologies or techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in Finance Docket No 35147, any related proceedings before the Surface Transportation Board, and/or any judicial review proceedings in connection with Finance Docket No 35147 and/or with any related proceedings. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed Undertakings in the form hereof, and that at the conclusion of this proceeding (including any proceeding on administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting materials designated or stamped as "CONFIDENTIAL," other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that parties producing confidential information or confidential documents shall be entitled to specific performance and injunctive and/or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

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Dated

Exhibit B

UNDERTAKING --HIGHLY CONFIDENTIAL MATERIAL

I, \_\_\_\_\_ am outside [counsel] [consultant] for \_\_\_\_\_, for whom I am acting in this proceeding I have read the Protective Order served on \_\_\_\_\_, 2008, governing the production and use of Confidential Information and Confidential Documents in STB Finance Docket No 35147, understand the same, and agree to be bound by its terms I agree not to use or to permit the use of any Confidential Information or Confidential Documents obtained pursuant to that Protective Order, or to use or to permit the use of any methodologies or techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in Finance Docket No 35147, any related proceedings before the Surface Transportation Board, or any judicial review proceedings in connection with Finance Docket No 35147 and/or with any related proceedings I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed undertakings in the form hereof

I also understand and agree, as a condition precedent to my receiving, reviewing, or using copies of any information or documents designated or stamped as "HIGHLY CONFIDENTIAL," that I will take all necessary steps to assure that said information or documents be kept on a confidential basis by any outside counselor outside consultants working with me, that under no circumstances will I permit access to said materials or information by employees of my client or its subsidiaries, affiliates, or owners, and that at the conclusion of this proceeding (including any proceeding on administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting information or documents designated or stamped as "HIGHLY CONFIDENTIAL," other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board

I understand and agree that money damages would not be a sufficient remedy for breach of this undertaking and that other parties producing confidential information or confidential documents shall be entitled to specific performance and injunctive and/or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity

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OUTSIDE [COUNSEL] [CONSULTANT]

Dated